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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1847 OF 2005

Smt. Shobha Datatray Chavan & Ors. ... Petitioners

Vs.

State of Maharashtra & Ors. ... Respondents

None for the petitioners.

Mr. S.R. Borulkar, Public Prosecutor with Mr. S.S. Pednekar, A.P.P. for the State.

CORAM: SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.

DATED: 10TH OCTOBER 2005.

P.C.:-

1. Looking to the serious nature of the allegations made in the petition, we had directed Senior Inspector of Police, Panchwati Police Station to remain present in this court today at 11.00 a.m. Accordingly, Mr. Ashok Patil, Senior Inspector of Police, Panchwati Police Station, is present in the court. We are surprised at the fact that the learned advocate for the petitioners, who had made a serious grievance about the conduct of the police on the last occasion, and because of which we had summoned the Senior Inspector of Police to the court, is not present in the court today. However, since the Senior Inspector of Police is present in the court to instruct the learned public prosecutor, we shall proceed with the matter.

2. The main allegation of the petitioners is that petitioner 1 was raped by constable Mr. J.T. Shelar on

6/9/2002 after midnight at about 2.00 to 2.30 a.m. According to the petitioners, the police have not conducted any investigation in respect of the said case i.e. C.R. No.267 of 2002 registered under section 376(2) A-1 and 506 of the Indian Penal Code. It appears that petitioner 2, the husband of petitioner 1 had approached the Maharashtra State Human Rights Commission. From the order 29/6/2005, which is annexed to the petition, it appears that a report came to be filed before the Human Rights Commission that petitioner 1's complaint against constable Mr. Shelar was investigated and "B" Summary was granted by the Judicial Magistrate, First Class, Nasik.

3. We are informed by the learned public prosecutor that no such application was made before the learned Magistrate and no such "B" Summary was granted and this report is incorrect. We are also informed that P.S.I. Mr. Bawiskar had wrongly submitted a report that "B" Summary was granted and relying on that, the Deputy Commissioner of Police had filed the said report before the Human Rights Commission. The learned public prosecutor tells us that P.S.I. Mr. Bhawiskar is dead and unfortunately the papers in C.R. No.267 of 2002 are also lost and an application has already been made to the concerned Magistrate for reconstruction of the papers. As directed by the learned Magistrate, an affidavit has been filed by the concerned Investigating Officer and the matter is being processed. The learned public

prosecutor states that once the proceedings are reconstructed, the case will be properly investigated. We hope and trust that police would take the necessary steps and conduct proper investigation. Looking to the casual manner in which this matter is handled so far, we are apprehensive that the police may not do so. We are amazed at the fact that a wrong statement should be made before the Human Rights Commission that "B" Summary was granted by the Magistrate in a rape case. We are also amazed at the fact that all the papers of the said case are lost. We do not wish to comment any further on the conduct of the police at this stage. But, if we find that the police repeat such irresponsible behaviour, we may have to take a serious note of it. We may not be understood to have expressed any opinion that the complaint of the petitioners is true. That is a matter for investigation. However, the investigation has to be done properly. The police should desist from adopting such a careless approach. The petition is disposed of with the hope that the police will have a fresh look at the matter and conduct proper investigation.

4. Copies of this order be forwarded to the Director General of Police, State of Maharashtra and the Commissioner of Police, Nasik.

(SMT. RANJANA DESAI, J.)

(ANOOP V. MOHTA, J.)